

REMARKS

Applicant is in receipt of the Office Action mailed May 28, 2004. Claims 1 – 24 were pending in the present application. Applicant has amended claims 1, 6, 15, and 20, and cancelled claims 4, 5, 18, and 19. Claims 1 – 3, 6 – 17, and 20 – 24 remain pending in the application.

Claims 1 – 2, 4, 7 – 8, 10, 14 – 16, 18, 21 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kenner et al. (U.S. Patent No. 6,154,744, hereinafter “Kenner”) in view of Eckes et al. (U.S. Patent No. 6,243,832, hereinafter “Eckes”). Claims 5 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kenner in view of Eckes in further view of Midgdey et al. (U.S. Patent No. 5,485,606, hereinafter “Midgdey”).

Applicant’s amended claim 1 recites in pertinent part:

“...wherein said server is further configured to create a first directory for said first user, wherein said server is configured to populate said first directory with a first plurality of files according to said first user type, wherein said first plurality of files includes said first file, wherein server is configured to create a second directory for said second user, wherein said server is configured to populate said second directory with a second plurality of files according to said second user type, and wherein said second plurality of files includes said second file.”

Eckes teaches that “different simulated test users can perform different mixes of data transfers to simulate the different kinds and lengths of files that are typical in a deployed, live installation of a network access server 230.” (col. 13, lines 7 – 11) However, Applicant can find no language in Midgdey, Eckes, or Kenner which teaches or suggests **“wherein said server is configured to populate said first directory with a first plurality of files according to said first user type,”** and **“wherein said server is configured to populate said second directory with a second plurality of files according to said second user type,”** as recited in Applicant’s amended claim 1. Eckes merely teaches *performing different mixes of data transfers*, not populating directories with transferred files.

In addition, Applicant respectfully disagrees with the Examiner's assertion that it would have been obvious "to implement the system taught by Kenner et al and Eckes et al with directory creation and file population techniques as taught by Dunn to create test directories that can be restore on any operating system to be test." Applicant respectfully notes that the mere fact that Midgdey's "method of file backup and restoration is usable with any operating system" is not a reason to combine Midgdey's backup system with Eckes' network access test system or Kenner's optimized storage and retrieval system. Applicant further notes that Eckes' test files merely *simulate* a live installation of a network access server, and thus have no value as backed up data.

Claim 1, along with its dependent claims 2 – 3 and 6 – 14, are therefore believed to patentably distinguish over the cited references for at least the reasons given above.

Claim 15 recites similar features to claim 1, and is likewise believed to patentably distinguish over the cited references, along with dependent claims 16 – 17 and 20 – 24 for at least the same reasons.

In addition, the Examiner states that he "can find no further definition of operating system protocol in applicant's specification or claim terminology." Applicant respectfully directs the Examiner to page 17, lines 11 – 14, which states "A user may be logged in to a server using an operating system protocol of a client. The operating system protocols may include a UNIX desktop login method, Windows NT 4.0 Workstation login method, or Windows 2000 Professional login method."

Applicant further notes that the protocols cited by the Examiner (IP, ICMP, SNMP, and Web protocol) are not "operating system protocols". Internet Protocol (IP) is a protocol for allowing systems on the Internet to communicate with one another. Internet Control Message Protocol (ICMP) is an Internet protocol sent in response to errors in TCP/IP messages. Simple Network Management Protocol (SNMP) is a network protocol used to manage TCP/IP networks. Web protocol establishes a graphical means to navigate the expanses of the Internet. Applicant

believes the term “operating system protocols” to be clear on its face, and respectfully submits that none of the protocols cited by the Examiner are applicable to Applicant’s claim 10, which recites a system **“wherein said server is configured to login said first user using a first operating system protocol, and wherein said server is configured to login said second user using a second operating system protocol.”**

Accordingly, Applicant’s claim 10 is believed to patentably distinguish over the cited art for at least the above reason. Claim 21 recites similar limitations to claim 10, and is thus believed to patentably distinguish over the cited art for at least the same reasons.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 50-1505/5181-60700/BNK.

Respectfully submitted,



B. Noël Kivlin
Reg. No. 33,929
ATTORNEY FOR APPLICANT(S)

Meyertons, Hood, Kivlin, Kowert and Goetzel, P.C.
P.O. Box 398
Austin, Texas 78767-0398
Phone: (512) 853-8800
Date: 8-30-01